

LAKE COUNTY PLANNING BOARD
December 14, 2016
Lake County Courthouse, Large Conference Room (Rm 316)
Meeting Minutes

MEMBERS PRESENT: Steve Rosso, Sigurd Jensen, Rick Cothorn, Bob Stone, Eileen Neill

STAFF PRESENT: Jacob Feistner, Joel Nelson, Rob Edington, Wade Humphries, Lita Fonda

Steve Rosso called the meeting to order at 7:01 pm. A quorum was lacking.

Meeting minutes deferred.

LAKE COUNTY BUILDINGS FOR LEASE OR RENT REGULATIONS (7:01 pm)

Joel Nelson talked about the draft Building for Lease or Rent (BLR) regulations. (See attachments to minutes in the December 2016 meeting file for draft.) He'd made changes and corrections to the previous draft the Board saw last month. He pointed out some additional changes. He noted in 5.A on pg. 3 that the Merritt Ranch zoning regulations actually did include the elements of 76-8-107, MCA and he would change that statement accordingly. He would also adjust 5.B on pg. 3 to reflect this. The Merritt Ranch regulations were made such that they wouldn't need to go through BLR review and that would be recognized. He gave a correction on pg. 7 in D.ii where one sentence repeated. On pg. 8 in the first line of 7.1, 6.d.ii was corrected to 6.D.iv.

Steve referred to MCA 76 chapter 8. It looked like much of [the contents of the draft were] required by state law and worded accordingly. Jacob added a lot was directly from the model regulations, which Joel adapted to Lake County's needs. Steve suggested adding 'for purposes of these regulations' to the beginning of the building definition on pg. 2 since a lot of people didn't consider a cell tower a building. He asked about previous discussion of coin-operated equipment and so forth. What were the things they were trying to manage?

Joel answered that regarding things like ATM machines and vending machines, they spoke with Wally Condgon (County attorney). If you rented out an area in a building, it would fall under these regulations. With a cell tower, there was a tower owner who would rent out space to a service provider for an antenna. Jacob gave the example of a bank that had over 20 different people renting space on the roof for a combination of antennas, dishes and solar panels. Joel mentioned a store might lease out a bunch of area for vending machines where the vending machine owner would rent the area the machine was in. He thought they'd be counting each area that was being rented.

Steve referred to 4 or more but less than 30. For a cell tower application, they'd be looking at someone who had 4 or more customers clamping something onto that tower? Joel, Steve and Jacob worked through to clarify that the draft regulations were for 30 or upwards. Something like a cell tower with 20 dishes or a 20-unit storage building would fall under the regulations but the proposal was to exempt things like that [from permitting]. Steve saw 4 or more in the MCA. He didn't see something about 30. Joel explained it said you could raise the number from 4 to

something else or you could raise it above 4 for certain types of units. They proposed raising it for units not for human occupancy, not supplied with water. Someone with a 29-unit storage building would not have to go through the application process.

Joel hadn't seen another county or city raise the number. Jacob said he'd only seen the model regulations used. [The planners] were looking at circumstances Lake County might deal with and make it fit better. Steve asked if they'd decided the impacts of 30 storage units were low enough that they didn't need to evaluate them. Joel explained some of the thought behind the selection of 30. He'd thought about storage units he was aware of and a 60-unit condominium storage unit that had been reviewed. The size of the building would play a factor. He mentioned vending machines, storage units and antennas on a tower. The line was drawn somewhere. State law drew it at four. The numbers were arbitrary. He considered mini-storages the most likely proposals they would see.

Jacob noted a lot of those areas were in zoning districts, which gave the ability to mitigate for impacts. Steve asked how this might apply with the Density Map and Regulations (DRM). Joel said it would promote the intent and functionality of the DRM. Dry storage buildings wouldn't be counted. They'd gone through that with the condominium storage unit. He outlined that the staff saw it as a unique proposal and took it to the Board of Adjustment, which denied it. The neighborhood hated the proposal. The developer appealed to district court. The County Attorney Office said they couldn't defend it; those were not units under the DMR. Jacob explained that was why they included the extra definition under 'building'.

Steve moved to 4.H on pg. 2. Might there be situations with a subletter that would need to be covered? Joel said there would always be a landowner. If the landowner leased the building [to someone] who leased it out to other entities, it would still fall under what they were talking about. Strange things would always come up. On pg. 7 in D.f, Steve commented the changes there to use 'heat radiation' was good. He confirmed with Joel that [BLR applications] did not require Planning Board review.

Rick thought it sounded like a lot of things would be grandfathered or exempt going forward. Was there an idea of the volume of buildings that would be impacted by this? Jacob said they were currently working with two people, one who wanted to build 516 storage units in multiple structures. Another was 750 storage units, which Joel added would probably be a condominium review. Jacob agreed it would be a different review. It was a similar project. Steve confirmed with the planners that the units would be sold rather than rented. Joel said that was subject to subdivision review. A few others had made inquiries that would fall under the BLR regulations. One of the inquiries was from A & B Storage about adding another building. Sigurd asked how many units were in one of those buildings. Joel guessed 20 to 30 per building with 6 or 8 buildings.

Rick noted that the traditional concept of a storage unit didn't hold. People ran business offices out of storage units. Sigurd observed it took water and electricity to do those things. The planners mentioned various businesses and operations that had run out of Johnco Storage. Jacob said various people, especially in the Swan, kicked around ideas about building cabins to rent. Joel commented those types of projects would be exempt if they were subject to the lodging

facility tax. Steve asked if something described that exemption. Joel pointed to item B.ii on pg. 3. He noted that RV parks and mobile home parks would typically be subdivisions. Some could be BLR's. He gave an example from another county.

Rick asked how the VRBO [Vacation Rental By Owner] would work under section B since they would be subject to the lodging facilities use tax. Joel thought they'd be exempt. Rick relayed that his accountant said you got 2 weeks before you became [subject to] paying the tax. Joel thought it had a lot to do with whether or not they were licensed. He was more accustomed to dealing with whether or not someone was licensed rather than whether or not they paid the taxes. It would require some follow up.

Motion made by Steve Rosso to recommend approval of the draft, with the changes mentioned by Joel, and with consideration of the reduction of the number 30 to 20.

Sigurd thought 30 seemed pretty good. Rick asked if Wally had weighed in. Joel and Jacob described that they talked with Wally before Joel put the regulations together so they knew his thinking although he hadn't done a thorough review yet. Joel didn't think they'd specifically discussed the number 30 with Wally but he'd been in the room when they'd had some discussion with the Commissioners. Neither the Commissioners nor Wally had a number in mind. They thought it would be a good thing to include so the language was there. Bob and Steve thought 30 sounded high. Rick asked if that was because of the footprint issue. Steve said it seemed like the idea here was to review the impacts of the development. If someone built 20 or 30 or 40 buildings, it seemed like the impacts were still there with 20 buildings, with people coming and going. Rick said when he traveled on Hwy 93, he hadn't seen people at these facilities coming or going except for himself, when he rented one. He hadn't seen the impacts.

Sigurd said 30 units in a big building weren't that many. Steve guessed there weren't cell towers with 30 antennas so cell towers wouldn't be reviewed. Joel thought the most common thing they'd be dealing with, given a raised number for dry units, would be storage units. Steve checked that they were talking about units on a property rather than the number of units in a building. Three buildings with 10 units in each building would have to go through this process. Joel noted the size of the units could vary from huge to little. One might have much more impact than the other.

Sigurd said for a small business, 30 units weren't that many. Rick was comfortable with 30, which seemed middle-of-the-road since they'd talked about zero to 60. It was arbitrary at some level. Sigurd and Rick described much larger operations they'd seen elsewhere. Rick said thirty wasn't too frightening. Sigurd mentioned the Dayton Boat Storage with big buildings. Steve asked if there were multiple levels. Sigurd said there weren't. That was something different than 20 or 30 units. Bob noted those were pretty expensive with forklifts and so forth. Steve said that facility would be grandfathered. It probably would have had to go through an application under these rules, given 5 buildings and a guess of 10 units per building. Rick said he'd only seen someone there maybe 2 or 3 times in the summer. Sigurd said this was an example of a small business that didn't need more regulation. Steve noted they had some business around the 4th of July. He was glad of the discussion and thought 30 might be okay. **Steve Rosso withdrew that part of the motion regarding changing the number.**

Motion made by Steve Rosso, and seconded by Bob Stone, to recommend approval of the draft, with the changes mentioned by Joel Nelson. Motion carried, all in favor.

OTHER BUSINESS (7:34 pm)

Bob asked about the Growth Policy and volunteers that had previously been recruited to work on it, and particularly the work done by Arlene Montgomery. Jacob described a different angle of approach for the Growth Policy update with the CDBG grant the County received. What had been taken in might be incorporated. Bob suggested they look beyond Montana to learn from others' mistakes. Lita and Steve thought the list of people who were willing to help should be kept in mind. Rick reminded that democracy was not a spectator sport.

Meeting adjourned by Steve Rosso, chair, at 7:42 pm.